

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FACTORY MUTUAL INSURANCE :  
COMPANY, a/k/a FM GLOBAL :  
a/s/o Catalog Resources, Inc. d/b/a ClientLogic :  
a subsidiary of ClientLogic Operation Corporation :  
and THE HARTFORD a/s/o Vivre, Inc. :  
:  
Plaintiffs, :  
:  
:  
v. :  
:  
:  
EAST COAST ERECTORS, INC., :  
LIGHTHOUSE CONSTRUCTION, INC., :  
BECKER MORGAN GROUP, INC., :  
and O'DONNELL, NACCARATO & :  
MACINTOSH, INC. :  
:  
:  
Defendants. :

**STIPULATED MODIFICATION TO RULE 16 SCHEDULING ORDER**

The parties have agreed to submit the following Modified Scheduling Order to the Court for approval:

1. **Pre-Discovery Disclosures.** The parties will exchange by **June 13, 2005** the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.
2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before **June 30, 2005**.
3. **Settlement Conference.** Pursuant to 28 U.S.C. §636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact Magistrate Judge Thyng to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court. A mediation with Magistrate Thyng is scheduled for August 30-31, 2005.

4. **Discovery.**

(a) Exchange and completion of interrogatories, identification of all fact witnesses and document production shall be commenced so as to be completed by **August 15, 2005.**

(b) Maximum of **25** interrogatories by each party to any other party.

(c) Maximum of **25** requests for admission by each party to any other party.

(d) Maximum of **15** depositions by plaintiff(s) and **15** depositions by defendant(s), excluding experts. Depositions shall not commence until the discovery required by Paragraph 4 (a, b. and c) are completed, unless otherwise agreed to by the parties.

(e) Reports from retained experts required by Rule 26(a)(2) are due from the plaintiff(s) by **July 15, 2005**; and from the defendant(s) by:

Damages Experts: September 9, 2005

Structural Engineering Experts: September 9, 2005

Meteorological Experts: September 9, 2005

Architectural Experts: September 9, 2005

Construction Management/Project Management Experts:

October 3, 2005

Plaintiffs' Expert Rebuttal Reports responding to Defendants' Expert Reports will be due by November 14, 2005, complete with all file documents, calculations and analysis supporting or related to such Rebuttal Reports. Plaintiffs Rebuttal Reports shall be limited to rebuttal comments and response to Defendants' Expert Reports and shall not introduce new opinions or conclusions.

(f) Expert depositions to be completed by **November 30, 2005.**

(g) Discovery will close **November 30, 2005**.

**5. Discovery Disputes.**

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at jjf\_civil@ded.uscourts.gov that the parties have completed briefing.

(d) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

**6. Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before **September 30, 2005**.

**7. Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before **December 16, 2005**. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of court.

**8. Applications by Motion.**

(a) Any applications to the court shall be by written motion filed with the Clerk of Court in compliance with the Federal Rules of Civil Procedure and Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995).

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at jjf\_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

9. Pretrial Conference and Trial. The Court will schedule a Pretrial Conference and Trial after reviewing the parties' proposed scheduling order.

/s/ Bruce McCullough  
Bruce W. McCullough, Esquire  
Counsel for Factory Mutual Insurance Company

/s/ James F. Bailey, Jr.  
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Counsel for O'Donnell, Naccarato  
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/s/ David L. Baumberger  
David L. Baumberger, Esquire  
Counsel for Lighthouse Construction

/s/ Natalie M. Ippolito  
Natalie M. Ippolito, Esquire  
Counsel for East Coast Erectors, Inc.

/s/ Victoria Petrone  
Victoria Petrone, Esquire  
Counsel for Becker Morgan Group, Inc.

So Ordered:

JOSEPH J. FARNAN, JR.  
UNITED STATES DISTRICT JUDGE

Date: \_\_\_\_\_